

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NEWTEK SMALL BUSINESS
FINANCE, LLC,

Plaintiff,

v.

TEXAS FIRST CAPITAL, INC.,

Defendant.

:
:
:
:
:
:
:
:
:
:

CIVIL ACTION NO. 22-2461

ORDER

AND NOW, this 7th day of December, 2022, after considering the complaint (Doc. No. 1), the defendant's motion to dismiss the complaint (Doc. No. 4), the plaintiff's response in opposition to the motion to dismiss (Doc. No. 6), the defendant's reply to the response (Doc. No. 8), and oral argument on the motion held in conjunction with the initial pretrial conference with counsel, it is hereby **ORDERED** as follows:

1. The defendant's motion to dismiss (Doc. No. 4) is **GRANTED**;
2. The complaint (Doc. No. 1) is **DISMISSED WITHOUT PREJUDICE** to the plaintiff filing an amended complaint;
3. The plaintiff shall have **30 days** from the date of this order to file an amended complaint; and
4. If the plaintiff does not file an amended complaint within **30 days** of this order, the court will deem the plaintiff to be standing on its original complaint and will dismiss this action with prejudice and close the case without further notice to the parties. Alternatively, if the plaintiff intends to not file an amended complaint and stand on its complaint as originally pleaded, it may

file a notice with the court stating that intent, and the court will issue a final order dismissing the case with prejudice.

BY THE COURT:

/s/ Edward G. Smith
EDWARD G. SMITH, J.